

Chapter 8.46

WEED ABATEMENT

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8.46.010 Owner of Real Estate to Remove Weeds.

It shall be the duty of every owner of real estate in the city to cut and clear, or clear, such real estate, together with one-half of the streets and alleys abutting thereon, of all weeds or worthless vegetation whenever such weeds or worthless vegetation shall extend more than six inches above the ground. Such weeds or worthless vegetation shall be cut so as not to extend more than six inches above the ground. After cutting, all such weeds or worthless vegetation shall be immediately removed from such real estate, or be burned upon the premises; provided, however, that if burned upon the premises, a permit so to do shall first be obtained from the Air Pollution Control Officer pursuant to Chapter 8.06 of this title. (Ord. 15569 §1; May 14, 1990: P.C. §8.80.010: Ord. 14936 §1; July 25, 1988: prior Ord. 11433 §1; August 18, 1975: Ord. 10926 §1; October 15, 1973: Ord. 3780 §1; November 18, 1940).

ANNOT.: The State has granted the cities of the primary class the right to require the owners of real estate to destroy weeds and undesirable vegetation and has made it the duty of the City to do so if the owner does not.

Greenwood v. City of Lincoln, 156 Neb. 142, 55 N.W.2d 343 (1952). Such activity is a governmental or public function. Id. Municipal employees in the performance of such a governmental function cannot subject the City of Lincoln to liability for the destruction of plaintiff's raspberry bushes. Id.

8.46.020 City May Cause Removal of Weeds.

Upon the failure of such owner, lessee, or occupant, or any agent, servant, representative or employee of any such owner, lessee, or occupant having control of any such lot or lands, to cut and clear, or clear, the same of all weeds or worthless vegetation extending more than six inches above the ground; then and in that event, the Director of Public Works and Utilities may after five days notice by publication at least once in a daily newspaper of general circulation in the City of Lincoln; or by certified United States mail to the owner or owners, cut and clear, or clear, such land and lots of all weeds or worthless vegetation

and remove the same therefrom, and the cost thereof shall be assessed against such real estate in the manner hereinafter provided. The remedy provided in this section shall be in addition to the penalty hereinafter provided and cumulative therewith. (Ord. 16951 §49; March 11, 1996: prior Ord. 15569 §2; May 14, 1990: P.C. §8.80.020: Ord. 14936 §2; July 25, 1988: Ord. 13911 §1; August 6, 1984: Ord. 12409 §1; October 23, 1978: Ord. 3780 §2; November 18, 1940).

8.46.030 Assessment of Cost; Report to Council.

The Director of Public Works and Utilities shall, at least annually, report to the City Council on the weeds or worthless vegetation which have been cut and removed, or cleared, by the Department of Public Works and Utilities from all real estate, together with one-half of the streets and alleys abutting thereon within the City of Lincoln as well as the costs thereof. Whereupon the City Council shall at a regular council meeting by resolution assess such cost against such real estate; provided, that notice of the time of such meeting of the City Council for making such assessment and for the purpose of such meeting shall be published once in a newspaper of general circulation in the city at least five days before said meeting of the council is held, and shall be mailed to such owner or owners by first class mail, postage prepaid at least five days before such meeting. Nothing herein shall prevent the city from accepting payment or collecting for the related costs by any other means permitted by law. (Ord. 16951 §50; March 11, 1996: prior Ord. 15569 §3; May 14, 1990: P.C. §8.80.030: Ord. 14936 §3; July 25, 1988: Ord. 3780 §3; November 18, 1940).

8.46.040 Collection of Assessment.

Such assessment, when assessed as provided in Section 8.46.030, shall be certified by the City Clerk and delivered to the City Treasurer and shall be collected in the manner provided by law for the collection of general real estate taxes. Such assessment shall be a lien upon such real estate from the date of assessment, and shall become delinquent fifty days after the date of assessment, and shall draw interest at the rate as set by the City Council from said date until paid. It shall be the duty of the City Treasurer to collect said tax in the same manner and at the same time as general taxes, and the items of said tax shall be receipted for on the same receipt blanks as general real estate taxes. Nothing herein shall prevent the city from accepting payment or collecting for the related costs by any other means permitted by law. (Ord. 15569 §4; May 14, 1990: P.C. §8.80.040: Ord. 14936 §4; July 25, 1988: prior Ord. 3780 §4; November 18, 1940).

8.46.050 Weeds and Rubbish; Fire Hazard.

If there be a lumber yard, oil tank or tanks, or wooden building or any other inflammable material upon any lot or parcel of land within the limits of the city, and near which there exists weeds and other worthless vegetation, between the dates of November 15 and May 1 of the following year, the Chief of the Fire and Rescue Department or the Fire Inspector shall notify, by publication or personal service, the owner or occupant or agent, representative or employee of such owner or occupant having control of such real estate to within twenty-four hours after notice not only cut and remove the weeds and worthless vegetation from such real estate, but also to scrape the surface of the ground within fifteen feet of such structure and to denude the ground within such area of any inflammable material. Upon the failure of such owner or occupant or agent, representative or employee of such owner or occupant to comply with said notice, then it shall be the duty of the Chief of the Fire and Rescue Department or the Fire Inspector to refer

said failure to so comply to the Director of Public Works and Utilities who shall proceed as provided in Section 8.46.020 hereof to enforce the provisions of this section, except that the twenty-four hour notice herein provided shall be in lieu of the five days notice required in said Section 8.46.020, and the cost thereof shall be assessed as provided in Sections 8.46.030 and 8.46.040 hereof. (Ord. 18170 §25; April 28, 2003; prior Ord. 16951 §51; March 11, 1996: Ord. 15569 §5; May 14, 1990: P.C. §8.80.050: Ord. 3780 §5; November 18, 1940).

8.46.060 Penalty.

Any person upon whom a duty is placed by the provisions of this chapter who shall fail, neglect, or refuse to perform such duty, or who shall violate any order authorized by this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed \$100.00. Each day that a violation of this chapter continues shall constitute a separate and distinct offense and shall be punishable as such. (Ord. 15569 §6; May 14, 1990: P.C. §8.80.060: Ord. 3780 §6; November 18, 1940).